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without reasonable cause to believe that it was intended thereby to give a preference cannot be determined on a summary petition, against the claimant's objection.

In the case of *In re N. Y. Car Wheel W.*, 132 Fed. 203, the court says: "A referee is without jurisdiction in a summary proceeding to require a third person to turn over to a trustee in bankruptcy money or property to which he asserts an adverse claim, where such claim is made with the apparent intention to defend the same and is not merely colorable." Sec. 23-A *Bankruptcy Act*; *American Trust Co. of Pittsburgh v. Wallis*, 126 Fed. 464; *Bardes v. Hawarden Bank*, 178 U. S. 524. It is otherwise when the claim is asserted in fraud of creditors or is merely colorable. *In re Knickerbocker*, 121 Fed. 1004; *In re Michie*, 116 Fed. 749; *Boyd v. Glucklick*, 116 Fed. 131. Or when the adverse claimant invokes the jurisdiction of the bankrupt court. *In re D. H. McBride & Co.*, 132 Fed. 285. When it is shown that a claim is adversely asserted with an apparent intention to protect the same by the usual process of the law, the bankruptcy court is bound to exercise its power with cautious discretion. *In re Kane*, 131 Fed. 386. The court says in *In re Teschmacher*, 11 A. B. R. 547, that "the adverse claimant is entitled to have his contention examined and judged according to the ordinary and regular process of law."

**BANKRUPTCY—JURISDICTION—INVOLUNTARY PETITION—AMENDMENT.**—*IN RE STEIN*, 12 A. B. R. 364.—An involuntary petition was filed with all necessary averments to give the court jurisdiction but with a deficiency in the amount. A demurrer was filed and on the same day additional claims were also filed to cure the defect in the petition.—*Held*, that an involuntary petition may not be amended by joining other creditors with claims enough to make up the \$500 requisite to confer jurisdiction upon the court.

The court has jurisdiction only when the averments are set out according to the Bankruptcy Act. *In re Scammon*, 6 Biss. 130; *In re Burch*, 10 N. B. R. 150; *In re Rosenfield*, 11 N. B. R. 86. Amendment will be allowed if the original petition alleges a sufficient number of petitioners, other averments being as required, though it is subsequently discovered that there is a deficiency. *In re Stein*, 105 Fed. 749. Also, in case subsequent proceedings develop that the provable claims did not amount to the required sum as set forth in the petition, the court will retain jurisdiction and allow amendment. *Colliers Bankruptcy*, 330; *In re Beddingfield*, 96 Fed. 180. The court distinguishes these cases on the ground that jurisdiction had been assumed and it is upheld in this opinion by the *dicta* in *In re Mackey*, 6 A. B. R. 577, and in *In re Mammoth Pine & L. Co.*, 109 Fed. 308. Cases of this kind are not likely to arise except through clerical error, as did this one.

**CONSTITUTIONAL LAW—DUE PROCESS—PUBLIC NUISANCE—ABATEMENT.**—*MCCONNELL v. MCKILLUP*, 99 N. W. 505 (NEB.).—*Held*, that a statutory provision subjecting property of a nature innocent in itself and subject to beneficial use to forfeiture to the state for unlawful user, without providing for a hearing, deprives the owner of his property without due process of law.

Forfeitures are not adjudgable by legislative act, except it may be for a violation of the revenue laws. *U. S. v. Brig Molek*, 2 How. 216; *Henderson's D. S.*, 14 Wall. 414. The legislature has the right to authorize judicial proceedings to be taken for the condemnation of property which they have declared to be a nuisance. *Barbier v. Connolly*, 113 U. S. 27; *Wurts v.*